

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

* * * * *

In the Matter of:

| | | |
|-----------------------------|---|----------------|
| THE CATV POLE ATTACHMENT |) | ADMINISTRATIVE |
| TARIFF OF GENERAL TELEPHONE |) | CASE NO. 251-8 |
| COMPANY OF KENTUCKY |) | |

O R D E R

PROCEDURAL BACKGROUND

On September 17, 1982, the Commission issued an Amended Order in Administrative Case No. 251, The Adoption of a Standard Methodology for Establishing Rates for CATV Pole Attachments, and ordered electric and telephone utilities providing or proposing to provide CATV pole attachments to file tariffs conforming to the principles and findings of the Order on or before November 1, 1982.

On October 22, 1982, General Telephone Company of Kentucky ("General") filed rates, rules, and regulations for CATV pole attachments. On November 15, 1982, the Commission suspended General's CATV pole attachment tariff to allow the maximum statutory time for investigation and comment from interested persons.

On November 19, 1982, the Kentucky Cable Television Association, Inc., ("KCTA") requested and was granted leave to intervene and comment on General's CATV pole attachment tariff. On January 17, 1983, KCTA filed a statement of objections to

various CATV pole attachment tariffs, including that of General. On February 14, 1983, General filed a response to KCTA's objections and a motion for approval of its CATV pole attachment tariff.

On March 29, 1983, the Commission received an extension of time in which to consider General's CATV pole attachment tariff.

FINDINGS

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that:

1. KCTA's objection to General's information on embedded pole investment and embedded pole cost is unreasonable. The Commission concurs with General's response to KCTA. General filed information on embedded pole investment and embedded pole cost consistent with the Commission's Amended Order in Administrative Case No. 251.

2. KCTA's objection to General's composite rate for CATV pole attachments is unreasonable. The Commission concurs with General's response to KCTA. The Commission's Amended Order in Administrative Case No. 251 clearly allows a composite rate based on relative pole populations when an inventory of CATV pole attachments is not available. However, the Commission advises General that at such time as an inventory of pole attachments is available for any given CATV company, General should reconcile accounts with the CATV company and initiate appropriate 2-user and 3-user pole attachment rates.

3. KCTA's objection to General's calculation of the capital recovery and tax components of its annual carrying charge

is reasonable and is addressed in findings 11(a) and 11(b). The Commission disagrees with General's response to KCTA and advises that the annual carrying charge should be based on readily available data and calculated in a clear and concise manner.

4. KCTA's objection to the indemnity provisions in General's CATV pole attachment tariff is unreasonable. The Commission concurs with General's response to KCTA. General should be indemnified against the negligence of a CATV company in the event such negligence causes injury to person, damage or destruction of property, or interruption or interference with telephone service.

5. KCTA's objection to the hold harmless provisions in General's CATV pole attachment tariff is reasonable. General did not respond to KCTA on this objection. General should not be held harmless against its own negligence in the event its negligence causes injury to person, damage or destruction of property, or interruption or interference with CATV service.

6. KCTA's objection to General's proposal to charge for CATV pole attachments and conduit usage from the date that General's facilities are made available is reasonable and is addressed in finding 9(n). Although the Commission does not disagree with General's interpretation of the tariff provision in its response to KCTA, the Commission advises General that the tariff provision should be changed to state that CATV pole attachment and conduit usage charges will accrue from the date of CATV installation or from the date that space is reserved for CATV installation at an unspecified future time.

7. KCTA's objection to General's requirement of advance payment of CATV pole attachment and conduit usage charges is unreasonable. The Commission concurs with General's response to KCTA. All of General's customers are billed in advance of service. In addition, all of General's customers are subject to surety of payment conditions in the form of bond or deposit.

8. KCTA's objection to General's proposal to bill CATV pole attachments and conduit usage on an annual basis is reasonable. The Commission advises General that it should develop a billing system that will provide for no less than quarterly billing periods, and, at such time as it is available, offer CATV companies the option of more frequent billing periods.

9. General's rules and regulations governing CATV pole attachments conform to the principles and findings of the Commission's Amended Order in Administrative Case No. 251 and would be approved, except for the following:

(a) General did not state a rate, rule, or regulation governing CATV anchor attachments. The Commission advises General that it is not required to provide CATV anchor attachments. However, in the event General provides or plans to provide CATV anchor attachments, it should file a CATV anchor attachment rate, along with appropriate cost information.

(b) At page 2, "Scope," paragraph 1, and in any similar provisions in the tariff, the Commission advises General that it cannot refuse CATV pole attachment or conduit usage because space is not "suitable and available." Also, General cannot refuse CATV pole attachment or conduit usage because it might interfere with

telephone service. If pole attachment or conduit space is available or can be made available, General cannot refuse CATV installation, except for safety reasons.

(c) At page 3, "Application For Permission To Install," paragraph 1, and in any similar provision in the tariff, the Commission advises General that it considers 90 days' prior notice of any CATV installation excessive, and finds that General should require no more than 45 days' prior notice.

(d) At page 3, "Application For Permission To Install," paragraph 3, and in any similar provision in the tariff, the Commission advises General that upon application of a CATV company to make pole attachments or use conduit and General's approval of the application General should allow a reasonable and mutually agreeable time frame in which to complete the CATV installation. General should not arbitrarily mandate the time frame.

(e) At page 4, "Application For Permission To Install," paragraph 1, and in any similar provision in the tariff, the Commission advises General that it cannot refuse a CATV company permission to install or rearrange CATV equipment if pole attachment or conduit space is available or can be made available, except for safety reasons.

(f) At page 5, "Installation And Maintenance Of CATV Equipment," paragraphs 1 and 2, and in any similar provision in the tariff, the Commission advises General that it must allow a CATV company the opportunity to install, replace, rearrange, or remove CATV equipment in a reasonable time, unless safety

considerations require immediate action. If a CATV company elects to perform the work activity, General may require an inspector to observe the work activity at the expense of the CATV company. If General performs the work activity, it cannot render itself harmless against its own negligence in the event such negligence causes injury to person, damage or destruction of property, or interruption or interference with CATV service.

(g) At page 6, "Installation And Maintenance Of CATV Equipment," paragraph 5, and in any similar provision in the tariff, the Commission advises General that it cannot refuse a CATV company permission to make additions to changes in the location of CATV equipment if pole attachment or conduit space is available or can be made available, except for safety reasons.

(h) At page 7, "Installation And Maintenance of CATV Equipment," paragraph 2, and in any similar provision in the tariff the Commission advises General that it cannot refuse a CATV company the opportunity to install, replace, rearrange, or remove CATV equipment in a reasonable time, unless safety considerations require immediate action. If a CATV company elects to perform the work activity, General may require an inspector to observe the work activity at the expense of the CATV company. If General performs the work activity, it cannot render itself harmless against its own negligence in the event such negligence causes injury to person, damage or destruction of property, or interruption or interference with CATV service.

(i) At page 7, "Installation And Maintenance of CATV Equipment," paragraph 3, and in any similar provision in the

tariff, the Commission advises General that it cannot prohibit a CATV company from intersetting poles or other equipment, if the CATV company has appropriate right-of-way and intersetting will not inhibit access to General's poles and equipment or cause a safety hazard.

(j) At page 9, "Limitations," paragraph 2, and in any similar provision in the tariff, as above, the Commission advises General that it cannot render itself harmless against its own negligence in the event such negligence causes injury to person, damage or destruction of property, interruption or interference with CATV service.

(k) At page 9, "Limitations," paragraph 5, and in any similar provision in the tariff, the Commission advises General that it may limit the right of a CATV company to assign, transfer, or sublet pole attachment or conduit space, but cannot limit the right of a CATV company to dispose of CATV property. Therefore, the Commission recommends that the following or a similar clause be added to the regulation: "except that nothing contained herein shall be construed as depriving a CATV company of its property or the ability to dispose of its property in any manner it deems reasonable."

(l) At page 13, "Termination of Attachments And Cable Duct Usage," paragraph 1, and in any similar provision in the tariff, the Commission advises General that it must allow a CATV company the opportunity to install, replace, rearrange, or remove CATV equipment in a reasonable time, unless safety considerations require immediate action. If a CATV company elects to perform the

work activity, General may require an inspector to observe the work activity at the expense of the CATV company.

(m) At page 13, "Rental Charges," paragraph 1, and in any similar provision in the tariff, the Commission advises General that references to "rental charges" should be changed to "rates."

(n) At page 13, "Rental Charges," paragraph 2, and in any similar provision in the tariff, the Commission advises General that it should not bill for CATV pole attachments or conduit usage from the date that facilities are made available. Instead, General should bill for CATV pole attachment or conduit usage from the date of CATV installation or from the date that space is reserved for CATV installation at an unspecified future time.

10. General failed to provide sufficient information to verify a conduit usage rate. The conduit usage rate should not be calculated on an individual basis at the time of application. Therefore, General should file information from plant records or another reliable source sufficient to establish a conduit usage rate, calculated consistently with the Commission's Amended Order in Administrative Case No. 251.

11. General's calculation of its annual carrying charge should be modified as follows:

(a) The rate of return component should be 10.93 percent, as authorized by the Commission in Case No. 8045, Adjustment of Rates of General Telephone Company of Kentucky.

(b) The depreciation component should be 5.22 percent, as calculated from the 1981 Annual Report.

(c) The taxes component should be 6.53 percent, as calculated from the 1981 Annual Report.

(d) The administration and overhead component should be 10.44 percent, as calculated from the 1981 Annual Report.

(e) Other miscellaneous expense should not be allowed, unless fully explained and justified.

(f) The total annual carrying charge should be 35.63 percent, based on calculations from the 1981 Annual Report and the Commission's Order in Case No. 8045.

12. General should be allowed to substitute 1982 Annual Report information to adjust its annual carrying charge, provided the information is filed with the Commission. Furthermore, any adjusted calculation of the annual carrying charge should be made as outlined in Attachment 1 to this Order, unless a specific deviation is requested and reasonable cause is demonstrated.

ORDERS

IT IS THEREFORE ORDERED that General's CATV pole attachment tariff as filed with the Commission on October 22, 1982, be and it hereby is rejected.

IT IS FURTHER ORDERED that General shall file revised rates, rules, and regulations governing CATV pole attachments with the Commission within 30 days from the date of this Order, and that the revised rates, rules, and regulations shall conform to the findings of this Order.

Done at Frankfort, Kentucky, this 31st day of May, 1983.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary

ATTACHMENT 1

CATV Annual Carrying Charge

The annual carrying charge should be based on the 1981 or 1982 Annual Report, Form N, to the Public Service Commission of Kentucky, and Commission Orders, as follows:

1. Depreciation

Depreciation on pole lines is stated at Page 31, Line 7, Column (d).

2. Taxes

The formula for calculating taxes is:

Page 16, Lines 5+6+7+8+9+10, Column (b)
Page 12, Line 10, Column (b)

3. Administration and Overhead

The formula for calculating administration and overhead is:

Page 61, Lines 36+45+51+61, Column b
Page 12, Line 10, Column $\frac{(b+c)}{2}$

4. Maintenance

The formula for calculating maintenance is:

Page 60, Line 4, 1, Column (b)
Page 19, Line 11, Column $\frac{(b+h)}{2}$

5. The rate of return should be the most recent rate of return authorized by the Commission.